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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CELSIS IN VITRO, INC.
a Maryland Corporation,

Plaintiff,

v.

CELLZDIRECT, INC., a Delaware Corporation
and wholly-owned subsidiary of INVITROGEN
CORPORATION; and INVITROGEN
CORPORATION, a Delaware Corporation.

Defendants.

Case No. 10-4053

MEMORANDUM OPINION AND ORDER

Under Fed. R. Civ. Pro. 65, Plaintiff Celsis In Vitro, Inc. ("Celsis IVT") moved for injunctive relief against the Defendants CellzDirect, Inc. and Invitrogen Corporation (collectively, "CellzDirect") for infringement of at least claims 1 and 10 of U.S. Patent No. 7,604,929 by making, using, offering to sell, selling, and exporting pooled multi-cryopreserved hepatocyte products. In support of its motion, Celsis IVT provided the Court with its legal memorandum (including pertinent legal authority), as well as the declarations of Stephen C. Strom, Ph.D., Mark A. Peterson ("Peterson declaration"), Daniel Dryden, and Judy Madden, and the supplemental declaration of Judy Madden. Counsel for both parties appeared in Court on July 2, 2010, July 7, 2010, and July 14, 2010, and were heard regarding their respective positions for the possible entry of a temporary restraining order.

Having fully considered the legal authority raised in Celsis IVT's Memorandum in Support of Motion for Preliminary Injunction and supporting declarations and exhibits,

the parties' legal memoranda and supporting papers regarding Celsis IVT's Motion for Entry of a Protective Order, as well as for the reasons stated in open Court, the Court finds that Celsis IVT has satisfied the requisite threshold showing to warrant the entry of a temporary restraining order against CellzDirect's use and sale of its pooled multi-cryopreserved hepatocyte products by demonstrating: (a) irreparable harm arising from CellzDirect's infringing acts; (b) that Celsis IVT lacks an adequate remedy at law as evidenced by the Peterson declaration; and (c) a substantial likelihood of success on the merits. The Court also finds that granting a temporary restraining order would not disserve the public interest, and thus weighs in favor of Celsis IVT.

IN VIEW OF THE FOREGOING IT IS HEREBY ORDERED that the Defendants CellzDirect, Inc., Invitrogen Corporation, and those acting in concert with either or both of the Defendants are temporarily restrained from selling, offering to sell, making, using, or exporting any of their pooled multi-cryopreserved hepatocyte products, including but not limited to the pooled multi-cryopreserved products found among catalog numbers: HMCH-M8-P10 (Lots Nos. HuP50, HuP58, HuP59, and HuP60); HMCS3S (Lot No. Hu0539-3); HMCS3S (Lot No. HuP53); HMCS3L (Lot No. HuP61); HMCS3S (Lot No. HuP88); HMCS3S (Lot. No. HuP89); HMCS3S (Lot No. HuP2001-03); and HMCS3S (Lot No. HuP2002-02).

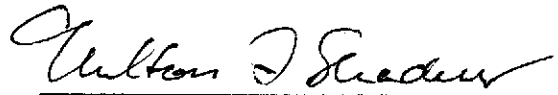
Notwithstanding the foregoing, the Defendants and those acting in concert with either or both of the Defendants are permitted to fill orders for pooled multi-cryopreserved hepatocyte products as received (and then only up to the quantity ordered) before July 7, 2010. In addition, Defendants are permitted to continue using product catalogues printed prior to July 7, 2010, so long as Defendants neither process nor fill any orders for the pooled multi-cryopreserved hepatocyte products identified in this order.

IT IS FURTHER ORDERED that Plaintiff Celsis IVT shall post a bond or cash security with the Clerk of this Court in the amount of \$70,000 no later than 4:30 p.m. on July 14, 2010, and such bond or cash security shall remain with the Clerk for the duration of this order.

This order is entered on July 14, 2010, and expires on August 13, 2010 at 11:59 p.m. CT. In view of the Defendants consenting, pursuant to Fed. R. Civ. P. 65(b)(2), in open court to this thirty (30) day injunction period.

SO ORDERED:

DATED: July 15, 2010


Honorable Milton I. Shadur
Senior U.S. District Court Judge

AGREED TO AS TO FORM:

This 15th day of July, 2010.

By: /s/ Adam G. Kelly
Adam G. Kelly, Esq.

Jordan A. Sigale, Esq.
Adam G. Kelly, Esq.
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Counsel for Plaintiff Celsis In Vitro, Inc.

This 15th day of July, 2010.

By: /s/ Lou Peterson
Lou Peterson, Esq.

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